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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,629

03/09/2006

Mauro Gelli

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EXAMINER

MUSSER, BARBARA J

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

05/19/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,629	<b>Applicant(s)</b> GELLI ET AL.	
	<b>Examiner</b> BARBARA J. MUSSER	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 44,45,51-62 and 64 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44,45,51-62 and 64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 56 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 56, it is unclear if this is two different background embossed patterns or only one. Claim 55, from which this claim depends, requires a background pattern be formed by embossing. Claim 56 then requires a background pattern be formed by embossing with a third set of protuberances, but does not refer back to the background embossing of claim 55, making it unclear if this is the same background embossing. For the purpose of examination, the third set of protuberances of claim 56 is assumed to form the background embossing of claim 55.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 44, 45, 51-62, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biagiotti(WO 99/44814) in view of Ruppel et al.(U.S. Patent 5,339,730).

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Biagiotti discloses forming an embossed laminate by making protuberances on a first web which form a background pattern, making second protuberances on the first web which have greater height and less density than the first pattern(Figure 7), applying glue to the second protuberances, and joining it to a second web.(Figure 6) Biagiotti discloses coloring can be applied by coloring the adhesive.(Pg. 5, ll. 30-31)The reference does not disclose application of any colored pattern to the first set of protuberances. Ruppel et al. discloses embossing a pattern and then printing on the protuberances formed by embossing so that the ink pattern is on the interior of the laminate instead of coloring the adhesive since this allows more choice in the ink used(Col. 1, ll. 22-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to print on one of the sets of the protuberances since Ruppel discloses this would allow the ink pattern to be between the layers of the laminate and since this would allow more choice in the type of ink used.(Col. 1, ll. 22-33) While Ruppel et al. discloses the printing occurs on the web to which glue is not subsequently applied, it would have been obvious to apply the ink to the protuberances on either of the webs since there are only two choices as to the web to which the ink is applied so it would have been obvious to try either depending on which pattern was desired to have ink and since there is no suggestion in Ruppel et al. that the ink could not applied to the protuberances on the same web to which the glue is later applied.

Regarding claim 45, Biagiotti discloses a pressure roll(311) and an embossing roll(309) and the adhesive is applied to the embossments while the web is still on the embossing roll.(Figure 6)

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Regarding claims 51 and 56, Biagiotti discloses the background embossing has a density of 10-100 per square centimeter.(Pg. 15, ll. 27-28)

Regarding claims 52 and 57, one in the art would appreciate that the percent of the surface covered by background embossing is within the purview of one skilled in the art. Additionally, Figure 6A shows the embossing wheel and the embossments appear to be spaced one embossment apart. Extrapolating this to all directions, the embossments would cover 1 in 9 spaces or less than 15%.

Regarding claims 53 and 54, Ruppel et al. discloses it is known to color the glue.(Col. 1, ll. 22-25) It would have been obvious to one of ordinary skill in the art at the time the invention was made to color the glue and to make it a different color from the printed pattern since two colors form a more decorative and pleasing pattern than a monochromatic color scheme.

Regarding claim 58, Figure 7 of Biagiotti shows one of the second embossments per at least 6 of the first. Extrapolating that in each direction yields one of the second embossments per 36 of the first, leading to less than 3 of the second embossments per centimeter even for 100 per cm of the first.

Regarding claims 61, 62, and 64, one in the art would appreciate that the pattern for the printing could be any conventional type of pattern and would have been well within the purview of choice of one skilled in the art.

### ***Response to Arguments***

5. Applicant's arguments filed 2/18/09 have been fully considered but they are not persuasive.

Regarding applicant's argument that Ruppel et al. does not disclose applying ink to the same web as the glue is applied, there are only two choices for which web the ink is applied to. Thus they are obvious alternatives. Also, Ruppel et al. does not suggest anything which would lead one to believe that there would be problems with applying the ink to the same web as the glue, i.e. it has no teaching against the possibility.

Regarding applicant's argument that Ruppel et al. is directed to protuberances of the same density, Ruppel et al. has drawings that show protuberances of the same density, but the reference itself says nothing in regards to the density and thus having the same density of protuberances is clearly exemplary and not a limiting choice.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA J. MUSSEY whose telephone number is (571)272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BJM

/B. J. M./

Examiner, Art Unit 1791

/Richard Crispino/

Supervisory Patent Examiner, Art Unit 1791